



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[RTID 0648-XR081]**

**Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Seabird Research Activities in Central California**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of an incidental harassment authorization Renewal.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) Renewal to Point Blue Conservation Science (Point Blue) to harass marine mammals incidental to seabird research activities in central California.

**DATES:** This IHA Renewal is valid from February 14, 2020 through July 6, 2020.

**FOR FURTHER INFORMATION CONTACT:** Amy Fowler, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at:

*<https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>*. In case of problems accessing these documents, please call the contact listed above.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of the takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each

reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal under those circumstances. Since that time, we have made minor changes to the Renewal process, none of which materially affects the scope of a Renewal IHA or the conditions for receiving one. Specifically, on a case-by-case basis, NMFS may issue a one-year IHA Renewal when (1) up to another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the *Dates and Duration* section of the initial IHA. The expiration date of the Renewal IHA cannot extend beyond one year from expiration of the initial IHA. All of the following conditions must be met in order to issue a Renewal:

- A request for Renewal is received no later than 60 days prior to the needed Renewal.

Previously the request was to be received no later than 60 days prior to expiration of the initial IHA. But where authorization under Renewal IHAs will not extend beyond one year from expiration of the initial IHA regardless of when the renewal application is received and where it is up to the applicant to determine when take coverage is needed, a request can be received later than 60 days prior to expiration of the initial IHA provided NMFS has 60 days to process the renewal;

- The request for Renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial IHA dates either are identical to the previously analyzed activities or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements; and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized;

- Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the initial findings remain valid.

For this Renewal IHA, the request was received later than 60 days prior to expiration of the initial IHA. However, the other qualifications were met and these circumstances initiated the agency's consideration of whether the original 60-day deadline requirement was necessary and appropriate.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. In this case, the agency inadvertently did not provide direct notice to a commenter when the Renewal was first proposed (84 FR 61892; November 14, 2019). Therefore, NMFS republished a notice of proposed Renewal on December 31, 2019 (84 FR 72301) to allow an additional 15 days of public comment (for a total of 60 days), with direct notice provided to that commenter.

A description of the Renewal process may be found on our website at: [www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals](http://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals). Comments that were received on the potential Renewal, along with relevant comments on the initial IHA, were considered in the development of this

Renewal IHA, and agency responses to applicable comments have been included in this notice.

### **History of Request**

On June 28, 2018, NMFS issued an IHA to Point Blue to take marine mammals incidental to seabird research activities in central California (83 FR 31372; July 5, 2018), effective from July 7, 2018 through July 6, 2019. On August 20, 2019, NMFS received an application for the Renewal of that initial IHA. As described in the application for Renewal, the activities for which incidental take is requested are identical to those covered in the initial authorization. As required, the applicant also provided a preliminary monitoring report consisting of the report of actual takes from January 1, 2018 through December 31, 2018 plus an updated report of takes from January 1, 2019 through the expiration of the initial IHA on July 6, 2019, which was provided following publication of the first proposed Renewal notice. Both reports are available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities> and confirm that the applicant has implemented the required mitigation and monitoring. The reports also show that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. On November 14, 2019 we published a notice of proposed Renewal IHA (84 FR 61892). A second notice of proposed Renewal IHA was published on December 31, 2019 (84 FR 72301) allowing for an additional 15 days of public comment.

### **Description of the Specified Activities and Anticipated Impacts**

Point Blue plans to monitor and census seabird populations, observe seabird nesting habitat, restore nesting burrows, and resupply a field station annually in central California. The planned activities occur on Southeast Farallon Island (SEFI), Año Nuevo Island (ANO), and Point Reyes National Seashore (PRNS). Point Blue, along with partners Oikonos Ecosystem Knowledge and PRNS, have been conducting seabird research activities at these locations for over 30 years. This research is conducted under cooperative agreements with the U.S. Fish and Wildlife Service (USFWS) in consultation with the Gulf of the Farallones National Marine Sanctuary. The seabird research and monitoring activities planned by Point Blue are identical to those analyzed in the initial IHA issued by NMFS, described in detail in the notice of Proposed IHA (83 FR 20045; May 7, 2018).

Presence of researchers has the potential to disturb pinnipeds hauled out at SEFI, ANO, and PRNS. As in the initial authorization, NMFS anticipates that take, by Level B harassment only, of California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), northern elephant seals (*Mirounga angustirostris*), and Steller sea lions (*Eumetopias jubatus*) could result from the specified activity (83 FR 31372; July 5, 2018).

#### *Detailed Description of the Activity*

A detailed description of the seabird research and monitoring activities for which take is authorized here may be found in the notices of the Proposed and Final IHAs for the initial authorization (83 FR 20045, May 7, 2018; 83 FR 31372, July 5, 2018). The locations (as described in the *Specific Geographic Region* section of the initial IHA), timing, and nature of the activities, including the types of equipment planned for use, are

identical to those described in the previous notices. This Renewal is effective from February 14, 2020 through July 6, 2020.

#### *Description of Marine Mammals*

A description of the marine mammals in the area of the activities for which take has been authorized, including information on abundance, status, distribution, and hearing, may be found in the notice of the Proposed IHA for the initial authorization (83 FR 20045; May 7, 2018). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature. The 2018 Stock Assessment Report notes that the estimated abundance of California sea lions has decreased slightly, however, neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the section *Description of Marine Mammals in the Area of Specified Activities* contained in the supporting documents for the initial IHA.

#### *Potential Effects on Marine Mammals and their Habitat*

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized here may be found in the notice of the Proposed IHA for the initial authorization (83 FR 20045; May 7, 2018). NMFS has reviewed the monitoring data from the initial IHA, recent Stock Assessment Reports, information on relevant Unusual Mortality Events, other scientific literature, and the public comments received, and determined that neither these nor any other new information affects our initial analysis of potential impacts on marine mammals and their habitat.

#### *Estimated Take*

A detailed description of the methods and inputs used to estimate take for the specified activity is found in the notices of the Proposed and Final IHAs for the initial authorization (83 FR 20045, May 7, 2018; 83 FR 31372, July 5, 2018). Specifically, the expected number of survey days, and marine mammal occurrence data applicable to this authorization remain unchanged from the previously issued IHA. Similarly, the stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA, as do the number of authorized takes, which are indicated below in Table 1. As in the initial IHA, the take estimates are based on historical data from the previous five monitoring reports (2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018) to generate 95 percent confidence interval maximums (assuming normal distribution) using STATA, a general-purpose statistical computer package. Takes recorded in all previous monitoring reports were based on occurrences that are consistent with Levels 2 and 3 of the three-point harassment scale (see Table 2).

**Table 1 -- Population Abundance Estimates, Total Proposed Level B Take, and Percentage of Population That May be Taken**

Species	Stock	Stock abundance	Total Proposed Level B Take	Percentage of Stock or Population
California sea lion	U.S.	257,606	32,623	12.7
Northern elephant seal	California breeding stock	179,000	239	0.13
Harbor seal	California	30,968	304	0.98
Steller sea lion	Eastern U.S.	41,638	43	0.10

*Description of Mitigation, Monitoring and Reporting Measures*

The mitigation, monitoring, and reporting measures included as requirements in



this authorization are identical to those included in the notice announcing the issuance of the initial IHA (83 FR 31372; July 5, 2018), and the discussion of the least practicable adverse impact included in that document remains accurate. The following measures are included in this Renewal:

To reduce the potential for disturbance from acoustic and visual stimuli associated with survey activities Point Blue will implement the following mitigation measures for marine mammals:

(1) Slow approach to beaches for boat landings to avoid stampede, provide animals opportunity to enter water, and avoid vessel strikes;

(2) Observe a site from a distance, using binoculars if necessary, to detect any marine mammals prior to approach to determine if mitigation is required (*i.e.*, site surveys will not be conducted if fur seals are present; if other pinnipeds are present, researchers will approach with caution, walking slowly, quietly, and close to the ground to avoid surprising any hauled-out individuals and to reduce flushing/stampeding of individuals);

(3) Avoid pinnipeds along access ways to sites by locating and taking a different access way. Researchers will keep a safe distance from and not approach any marine mammal while conducting research, unless it is absolutely necessary to flush a marine mammal in order to continue conducting research (*i.e.*, if a site cannot be accessed or sampled due to the presence of pinnipeds);

(4) Cease or delay visits if the number of takes that have been authorized are met, if a species for which takes were not authorized is observed (*e.g.*, northern fur seals

(*Callorhinus ursinus*) and Guadalupe fur seals (*Arctocephalus townsendi*)), or if pups are present;

(5) Monitor for offshore predators and do not approach hauled out pinnipeds if great white sharks (*Carcharodon carcharias*) or killer whales (*Orcinus orca*) are present. If Point Blue and/or its designees see pinniped predators in the area, they must not disturb the pinnipeds until the area is free of predators;

(6) Keep voices hushed and bodies low to the ground in the visual presence of pinnipeds;

(7) Conduct seabird observations at North Landing on SEFI in an observation blind, shielded from the view of hauled out pinnipeds;

(8) Crawl slowly to access seabird nest boxes on ANI if pinnipeds are within view;

(9) Coordinate research visits to intertidal areas of SEFI (to reduce potential take) and coordinate research activities for ANI to minimize the number of trips to the island; and

(10) Require that beach landings on ANI only occur after any pinnipeds that might be present on the landing beach have entered the water.

Point Blue will contribute to the knowledge of pinnipeds in California by noting observations of: (1) Unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing pinnipeds or carcasses, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Required monitoring protocols for Point Blue will include the following:

- (1) Record of date, time, and location (or closest point of ingress) of each visit to the research site;
- (2) Composition of the marine mammals sighted, such as species, gender, and life history stage (*e.g.*, adult, sub-adult, pup);
- (3) Information on the numbers (by species) of marine mammals observed during the activities;
- (4) Estimated number of marine mammals (by species) that may have been harassed during the activities;
- (5) Behavioral responses or modifications of behaviors that may be attributed to the specific activities and a description of the specific activities occurring during that time (*e.g.*, pedestrian approach, vessel approach); and
- (6) Information on the weather, including the tidal state and horizontal visibility.

The lead biologist will serve as an observer to record incidental take. For consistency, any reactions by pinnipeds to researchers will be recorded according to a three-point scale shown in Table 2. Note that only observations of disturbance noted in Levels 2 and 3 should be recorded as takes.

**Table 2 -- Levels of Pinniped Behavioral Disturbance**

Level	Type of Response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2*	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3*	Flush	All retreats (flushes) to the water.

\* Only observations of disturbance Levels 2 and 3 are recorded as takes.

This information must be incorporated into a monitoring report for NMFS. The monitoring report will cover the period from January 1, 2019 through December 31, 2019. NMFS requires that Point Blue submit annual monitoring report data on a calendar year schedule, regardless of the current IHA's initiation or expiration dates. This ensures that data from all consecutive months will be collected and, therefore, can be analyzed to estimate authorized take for future IHA's regardless of the existing IHA's issuance date. Point Blue will submit a draft monitoring report for the 2019 activities to NMFS Office of Protected Resources by April 1, 2020. A final report will be prepared and submitted within 30 days following resolution of any comments on the draft report from NMFS. If no comments are received from NMFS, the draft monitoring report will be considered to be the final report.

Point Blue must also submit a draft monitoring report covering the period from January 1, 2020 through July 6, 2020. This report will be due by October 4, 2020 (90 days after the expiration of the Renewal IHA). A final report must be prepared and submitted within 30 days following resolution of any comments on the draft report from NMFS. If no comments are received from NMFS, the draft monitoring report will be considered to be the final report. The reports must contain the informational elements described above, at minimum.

Point Blue must also report observations of unusual pinniped behaviors, numbers, or distributions and tag-bearing carcasses to the NMFS West Coast Regional Office.

If at any time the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, Point Blue will immediately cease the specified activities and report the

incident to the NMFS Office of Protected Resources, and the NMFS West Coast Regional Stranding Coordinator. The report must include the following information:

- (1) Time and date of the incident;
- (2) Description of the incident;
- (3) Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- (4) Description of all marine mammal observations in the 24 hours preceding the incident;
- (5) Species identification or description of the animal(s) involved;
- (6) Fate of the animal(s); and
- (7) Photographs or video footage of the animal(s).

Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Point Blue to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Point Blue may not resume the activities until notified by NMFS.

In the event that an injured or dead marine mammal is discovered and it is determined that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), Point Blue must immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the same information required in the report on unauthorized take. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Point Blue to determine whether additional mitigation measures or modifications to the activities are appropriate.

In the event that an injured or dead marine mammal is discovered and it is determined that the injury or death is not associated with or related to the activities covered by the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Point Blue must report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Point Blue must provide photographs, video footage, or other documentation of the stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

### **Public Comments**

A notice of NMFS' proposal to issue a Renewal to Point Blue was published on November 14, 2019 (84 FR 61892). A second notice of proposed IHA Renewal was published on December 31, 2019 (84 FR 72301). These notices either described, or referenced descriptions of, Point Blue's activity, the marine mammal species that may be affected by the activity, the potential effects on marine mammals and their habitat, proposed amount and manner of take, and proposed mitigation, monitoring and reporting measures. During the public comment periods, NMFS received comment letters from the Marine Mammal Commission (Commission). The comments and our responses are provided below.

*Comment 1:* In their November 22, 2019 letter, the Commission noted that Point Blue's initial IHA did not include the terms and conditions outlining the possibility of a Renewal and that Point Blue did not request the IHA Renewal at least 60 days prior to the expiration of their initial IHA. The Commission also noted that the monitoring report provided by Point Blue covered the period of January 1, 2018 through December 31,

2018, though the initial authorization was valid from July 7, 2018 through July 6, 2019. The Commission claimed that without monitoring data from January 1 until July 6, 2019, it is unclear whether the number of animals taken were within the authorized limits of the initial IHA. Therefore, the Commission recommended NMFS deny Point Blue's request for an IHA Renewal and republish an abbreviated notice of proposed IHA with a 30-day public comment period.

*Response:* Though the Commission is correct that the Renewal IHA requirements were unintentionally left out of the final authorization for Point Blue's initial IHA, complete information on the terms and conditions for considering a Renewal were included in the notice of the initial proposed IHA (83 FR 20045; May 7, 2018), which also invited the public to comment on both the initial proposed IHA and the potential for a Renewal. It is this notice that is important to ensure the public has sufficient information to comment on a potential Renewal for the specific activity. The purpose of Renewal process language being included in the issued initial IHA itself is to remind the IHA holder of the possibility of seeking a Renewal, if their activities qualify. But this information was in the notice of the proposed initial IHA and is also easily accessible on NMFS' website, so while the information should have been included in the final initial IHA, its omission did not inhibit the Renewal process.

The Commission is correct that Point Blue did not request a Renewal at least 60 days prior to the expiration of their 2018 IHA, but NMFS has since revised the conditions for a Renewal to state that a request for Renewal must be received no later than 60 days prior to the needed Renewal. The purpose of the 60-day deadline was to ensure that NMFS has sufficient time to process the Renewal request. Where authorization under

Renewal IHAs will not extend beyond one year from expiration of the initial IHA regardless of when the renewal application is received and where it is up to the applicant to determine when take coverage is needed, we realized that a Renewal request can be received later than 60 days prior to expiration of the initial IHA provided NMFS has 60 days to process the renewal. The instructions for applying for a Renewal IHA have been revised accordingly.

The initial IHA required a monitoring report covering the period from January 1, 2018 through December 31, 2018 to be submitted by April 1, 2019. As discussed earlier, Point Blue's annual monitoring report is based on a calendar year regardless of the IHA's initiation or expiration dates to ensure that data from all consecutive months can be analyzed to estimate authorized take for future IHA's regardless of the existing IHA's issuance date. Point Blue submitted their monitoring report on time and the report indicated no impacts of a scale or nature not previously analyzed or authorized, which is required for consideration of a Renewal IHA. Point Blue subsequently provided an updated report of takes from January 1, 2019 through the expiration of the initial IHA on July 6, 2019. In their January 8, 2020 letter, the Commission noted that the updated report contained only a table of reported takes, and suggested that the updated report was inadequate to support NMFS' requirement that the report shows that no impacts of a scale or nature not previously analyzed or authorized had occurred as a result of the activities conducted. When the updated monitoring report is considered in conjunction with the initial monitoring report provided as required by their 2018 IHA, NMFS has determined that the reporting requirements have been satisfied and the monitoring results indicate no impacts of a scale or nature not previously analyzed and authorized.



*Comment 2:* In their November 22, 2019 letter, the Commission noted that the description of the Renewals process on NMFS's website indicates that NMFS would directly contact all commenters on the initial authorization by email, phone, or postal service to notify them of the proposed IHA Renewal and provide commenters the opportunity to submit additional comment, but that the Commission had not been directly contacted regarding any proposed IHA Renewals to date.

*Response:* NMFS published a second notice of the proposed Renewal IHA on December 31, 2019 (84 FR 72301) and ensured that the Commission was directly notified by email. NMFS will ensure that the Commission is contacted along with all other persons who commented on the initial IHA on all future proposed IHA Renewals. We regret the oversight, which occurred because the Commission itself has consistently contacted NMFS regarding both proposed initial IHAs and proposed Renewal IHAs, either upon notice of the proposed IHA being posted online by the Office of the Federal Register for public inspection (which occurs the day prior to formal publication) or on the first day of the formal comment period, without notification of the proposed IHA from NMFS.

*Comment 3:* The Commission noted that Point Blue has been requesting one-year authorizations to take marine mammals incidental to its activities for numerous years, and their activities are likely to continue into the future. The Commission therefore recommended that NMFS authorize the taking of marine mammals incidental to Point Blue's activities via a rulemaking rather than individual IHAs and Renewals for all future Point Blue activities.

*Response:* NMFS thanks the Commission for their recommendation. Point Blue has submitted a request for MMPA five-year regulations and Letters of Authorization and NMFS published a Notice of Receipt of Point Blue's request on December 4, 2019 (84 FR 66379).

*Comment 4:* In their January 8, 2020 letter, the Commission alleged that NMFS revised its Renewal process in response to receiving Point Blue's request for Renewal later than 60 days prior to expiration of their IHA. For this reason, and those summarized in the previous comments, the Commission recommended NMFS deny Point Blue's request to renew its 2018 IHA, and refrain from issuing a new IHA without the standard 30-day public comment opportunity for proposed IHAs.

*Response:* As discussed earlier, NMFS's consideration of when a Renewal IHA application must be submitted has evolved since the initial notice of proposed IHA, and we have revised our procedure for Renewals accordingly. The updated procedure is provided on NMFS' website (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals>) and will be included in all future authorizations. Additionally, we note that the total of the two comment periods for the Point Blue proposed Renewal IHA was 30 days, which in combination with the initial 30-day comment period on the potential for a Renewal IHA provided a total of 60 days for public comment.

## **Determinations**

The seabird research and monitoring activities conducted by Point Blue, the method of taking, and the effects of the action are identical to those analyzed in the initial IHA, as is the planned frequency of research site visits within the authorization period.

The potential effects of Point Blue's activities are limited to Level B harassment in the form of behavioral disturbance. In analyzing the effects of the activity in the initial IHA, NMFS determined that Point Blue's activities would have a negligible impact on the affected species or stocks and that the authorized take numbers of each species or stock were small relative to the relevant stocks (*e.g.*, less than 13 percent for all stocks). The numbers of marine mammals authorized to be taken are identical to those authorized in the initial IHA. The mitigation measures and monitoring and reporting requirements as described above are identical to the initial IHA.

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. This includes consideration of the estimated abundance of the California sea lion stock decreasing slightly. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species and stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Point Blue's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action; and (5) appropriate monitoring and reporting requirements are included.

#### **National Environmental Policy Act**

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must

review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA Renewal qualifies to be categorically excluded from further NEPA review.

### **Endangered Species Act**

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the West Coast Region Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

### **Renewal**

NMFS has issued a Renewal IHA to Point Blue for the taking of marine mammals incidental to conducting seabird research in central California from the date of issuance (February 14, 2020) through July 6, 2020.

Dated: February 14, 2020.

**Donna S. Wieting,**

*Director, Office of Protected Resources,*

*National Marine Fisheries Service.*

[FR Doc. 2020-03399 Filed: 2/19/2020 8:45 am; Publication Date: 2/20/2020]